



OLR RESEARCH REPORT

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GUARDIAN LITEM APPOINTMENTS

By: Susan Price, Senior Attorney

You asked several questions about guardian *ad litem*s (GAL) assigned to represent the best interests of indigent children in Connecticut child protection matters. Your specific questions and answers follow. (Christine Perra Rapillo, Director of the Office of the Chief Public Defender's Delinquency Defense and Child Protection Division, provided much of the information on which our answers are based.)

How are GALs appointed?

GALs are appointed to represent indigent children under rules and procedures established in state law. Ordinarily, these children are represented only by court-appointed attorneys. But if a conflict arises between the (1) attorney's statutory and ethical obligations to advocate solely for child's legal wishes and (2) child's best interests, the attorney can ask the judge presiding over the case to appoint a GAL to advocate for the child's best interests.

Under the *Standards of Practice for Attorneys and Guardians Ad Litem Representing Children in Child Protection Cases*, a child's best interests are a measure of his or her well-being, including physical, emotional, psychological, intellectual, and moral needs. They encompass the child's interests in sustained growth, development, and well-being and in continuity and stability in his or her environment (*Standards of Practice*, Sec. I. B (Definitions)).

On what must judges base GAL appointment decisions?

Judges must make two findings before they can grant a GAL appointment request. First, they must determine, based on observations or information provided by the child's attorney, that the child cannot adequately act in his or her best interests. Second, they must find, based on information provided by the attorney, that protective action is needed because the child's wishes, as determined by the attorney, if followed, could cause the child substantial physical, financial, or other harm ([CGS § 46b-129a](#)).

Once they make these findings, they may (1) appoint a GAL to serve on a voluntary basis or (2) direct the Child Protection Unit within the Office of the Chief Public Defender (OCPD) to make a GAL appointment from its list of attorney-contractors (see below). Court rules limit GAL appointments to individuals who have completed a 30-hour training program. The program's curriculum covers court procedures, psychology principles, interviewing techniques, tools for testifying in court, and creating "child-centered" custody plans.

What are GALs' responsibilities and duties?

The Standards of Practice for Attorneys and Guardians Ad Litem Representing Children in Child Protection Cases, issued by the former state Office of the Chief Child Protection Attorney in 2006, set out the state's expectations and practice standards. They are intended to help GALs prioritize duties and manage their caseloads to benefit each child.

They require the GAL to meet with the child and establish and maintain a trusting relationship. Suggested techniques include (1) meeting with the child before court hearings or when emergencies arise and (2) acknowledging special events in his or her life.

They specify that GALs' investigatory responsibilities include:

1. obtaining authorizations granting access to confidential information;
2. reviewing relevant records, including those maintained by social services, psychiatric, psychological, drug and alcohol, and medical service providers; law enforcement agencies; and schools;
3. reviewing court files concerning the child and siblings and Department of Children and Families (DCF) case narratives and records;

4. contacting lawyers for other parties and GALs or court-appointed special advocates for background information on other parties involved in the child protection case;
5. contacting and meeting with the child's parents, legal guardians, or other caretakers (if permitted by these individuals' attorneys);
6. interviewing people involved with the child, including school personnel, DCF social workers, foster parents and other caretakers, relatives, coaches, family friends, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;
7. reviewing photographs, video or audio tapes, and other evidence; and
8. discussing non-confidential matters with the child's attorney.

While conversations between a child and his or her attorney are confidential, conversations or information shared with his or her GAL are not. The *Standards of Practice* direct the GAL to explain this distinction to the child in a developmentally appropriate manner. Because the non-confidential nature of the GAL-child relationship may limit a child's willingness to share information, the *Practice Standards* indicate that the GAL's collection and analysis of information from other sources should be equal to, or surpass, that undertaken by the child's attorney.

How do GALs determine and advocate for a child's best interests?

The *Standards of Practice* provide GALs with guidance for determining and advocating for the child's best interests. In addition to conducting investigations and making court recommendations, they participate in DCF's permanency planning process.

Permanency includes minimizing disruptions in a child's life while the child is in state care; ensuring trauma-informed treatment, decision-making, and transition planning; and identifying a permanent living arrangement that serve the child's best interests. DCF's preferred permanency goals are (1) reunifying the child with his or her parents, (2) adoption, (3) guardianship, and (4) permanent and legal placement with a relative.

Among other things, this requires GALs to keep in touch with the child's DCF caseworker and attend treatment plan meetings and administrative case reviews. They must take steps to ensure that the department's permanency plan includes (1) provisions identifying the child's (1) developmental, medical, emotional, educational, and independent living needs and (2) services that could improve parents' abilities to meet the child's particular needs.

The *Practice Standards* specify that GAL administrative and court recommendations be based on all available information and reflect the GAL's opinion on how to maximize his or her client's needs for permanency, healthy growth and development, safety, and well-being. GALs may testify about their findings and recommendations, request court hearings or administrative proceedings, and file certain motions and requests.

How does OCPD decide which attorneys to include on its list of potential GAL appointees?

OCPD maintains a list of approximately 200 attorneys to whom the agency has awarded contracts to provide services (either as counsel or GAL for children or adults) in child protection cases. Those interested in becoming contractors must file applications with OCPD.

OCPD screens applications twice. First, the office's directors of (1) assigned counsel and (2) delinquency defense and child protection review all applications and forward those they approve to a standing hiring committee for further review. The committee submits recommendations to the chief public defender, and she makes the final decision on which applicants should be offered contracts.

OCPD's contract attorney list is not published online.

How are GALs paid?

OCPD pays each contractor \$500 per case, regardless of whether the office has assigned him or her to serve as a child's attorney or GAL. Contractors can ask the director of assigned counsel for permission to bill hourly for work on complex cases. The hourly rate is \$50 for client visits, trial time, and attendance at DCF administrative hearings.

Are there limits on GALs' caseloads?

Attorneys contract with OCPD for a maximum of 100 cases per year. Caseloads can exceed the maximum if (1) necessary to meet OCPD's needs or address shortages in some court locations or (2) the directors approve an attorney's request to take on more cases.

OCPD appointed 619 GALs in FY 12. Of these, 568 were assigned to advocate for a child's best interests and 51 were assigned to advocate for adults.

Who directly monitors GAL performance?

The director of delinquency defense and child protection is directly responsible for monitoring contractors' performance. The director of assigned counsel is responsible for monitoring billing and administering financial aspects of the contracts. Complaints are handled by the appropriate OCPD director based on their subject matter.

Does OCPD require contractors to participate in continuing education programs?

In addition to completing three days of pre-service training, new contractors work with mentors during their first contract year. All contractors are required to complete six hours of child-protection-related training every year.

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